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The Fog of War

by Jennifer A. Gritt
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The U.S. began bombing Afghanistan on October 7, 2001. The strikes were aimed at locations where suspected al Qaeda terrorists were. The Bush administration, in an attempt to convince everyone that the U.S. was not at war with the Afghan civilian population, dropped humanitarian food packages from cargo planes at the same time U.S. fighter planes were dropping their bombs. Defense Secretary Donald Rumsfeld was quick to assure the American people that the U.S. was doing everything humanly possible to avoid civilian casualties. Rumsfeld also worked to instill the impression that because Osama bin Laden (which to Rumsfeld also meant the Taliban, anyone supporting the Taliban, and people to be named later) was responsible for orchestrating the September 11th attacks, that the al Qaeda network and Taliban leadership were responsible for every Afghan civilian death resulting from the U.S. bombing campaign. "We did not start this war," Defense Secretary Rumsfeld stressed at a DOD news briefing. "So understand, responsibility for every single casualty in this war, whether they're innocent Afghans or innocent Americans, rests at the feet of the al Qaeda and the Taliban."

International laws governing warfare, however, do not support this sentiment. These laws were established in an attempt to constrict a nation's conduct while fighting a war within legal boundaries regardless of who was responsible for starting the conflict. They forbade systematic targeting of civilians and established the rules governing the treatment and legal status of prisoners of war. These international laws were embodied in such statutes as the Geneva Convention, and the Nazi War Crimes Tribunal at Nuremberg which created a whole new set of international standards by vaguely defining what war crimes were and what constituted a crime against humanity. Despite the extra-judicial problems these international laws pose to national sovereignty, they have been widely accepted by the international community as legitimate, and are the foundation for the current UN tribunals in Rwanda and the Hague as well as the proposed International Criminal Court. Because of this established and accepted international code of law, America's conduct in fighting the war on terrorism is fair game for severe international scrutiny. If flag waving Americans can't bring themselves to recognize that the U.S. military's conduct in Afghanistan as barbaric, ruthless, and unjust, then maybe the international community could point that out to them, by extraditing Bush and company to the Hague.

The Fog Thickens

The first incident to raise serious questions about the U.S. war in Afghanistan, which would be listed as Number One on the UN indictment, was the fortress uprising near Mazar-e-Sharif that resulted in the killing of approximately five hundred pro-Taliban fighters. A press release from the Human Rights Foundation emphasized that the controversial statements of

Secretary of Defense Donald Rumsfeld who was "quoted as saying that no quarter should be given to troops who wished to surrender and that they should rather be killed," could have fostered an atmosphere where U.S. troops were not operating within the legal boundaries of just war principles embodied in the Geneva Convention. Indeed, in a November 9, 2001 DOD press briefing, Defense Secretary Rumsfeld stated that: "The United States is not inclined to negotiate surrenders," and that the Northern Alliance forces were in a better position to negotiate than the American forces. But then Rumsfeld went on to stress that: "Needless to say, we have some ongoing discussions with those [Northern Alliance] forces, and *it's our hope that they will not engage in negotiations* that would provide for the release of al Qaeda forces." (Emphasis added.) Rumsfeld was later questioned further about this position, and he replied that the U.S. was "not in a position to have people surrender to us. If people try to, we are declining. That is not what we're there to do, to begin accepting prisoners and impounding them in some way or making judgments." Oh really Rumsfeld? What, pray tell, is America there to do then?

Even if Bush Inc. argued that the Northern Alliance was responsible for the majority of deaths at the prison fortress, this military force was an acting U.S. ally and was supplied with U.S. military guidance and air support that ultimately brought the fighting to an end. Three of our guys were killed by friendly fire in the bloodbath, so Rumsfeld was going to have a hard time arguing that U.S. forces were just watching from a distance. As the dust settled around the prison fortress and Red Cross workers were allowed to go in and start removing bodies, evidence that some of the dead pro-Taliban prisoners had their arms tied behind their backs was documented. How exactly did these pro-Taliban fighters contribute to the prison revolt? By kicking dirt at the bullets and bombs raining down on them?

Another incident that could be added to a UN indictment was when a U.S. bombing mission in early December 2001 destroyed villages outside of Kabul. On December 1st, U.S. aircraft dropped bombs on the village of Kama Adu, reportedly killing over one hundred civilians. Surviving villagers maintained that no members of al Qaeda were ever there. The U.S. completely denied the incident occurred. As the Seattle Times reported on December 4th: "The United States says it is targeting Osama bin Laden's followers around this village in northeastern Afghanistan, but anti-Taliban leaders say local villagers, not terrorists, are dying in the raids because Americans are using faulty intelligence." That same day, Pentagon spokesman Rear Admiral John Stufflebeem asserted: "I don't have any reports of any villages being struck. The only reports I have are that all our weapons have been on target." At a press briefing, Defense Secretary Rumsfeld told reporters: "In Kandahar, the hope remains that Taliban and al Qaeda forces will surrender, but we have reason to believe that Omar may have instructed his forces to continue fighting, which of course is putting the civilian population in Kandahar and that region at risk. Indeed, hiding in the city, the Taliban are in effect using the civilian population of Kandahar as shields." Rumsfeld went on to claim: "We know this much for certain - the United States has taken extraordinary measures to avoid civilian casualties in this campaign."

The normal definition of "extraordinary measures" and the White House version must be two different things, and in case the rest of America missed it, Rumsfeld's two statements contradict. If the U.S. was aware that a handful of al Qaeda fighters were using a village with a population of several hundred as shields, and then in order to get at those fighters the U.S. dropped several bombs on the village, the combatant to civilian death ratio is grossly disproportionate. How was the U.S. NOT deliberately targeting civilian villages in order to destroy bin Laden's terrorist network? In an interview with

CBS's Dan Rather, Defense Secretary Rumsfeld reiterated the official U.S. position on the bombings: "They're using the civilians in Kandahar as shields in effect hiding in there. My hope is that we'll be able to resolve it by their surrendering. But if not, we'll have to resolve it some other way."

University of New Hampshire Professor Marc W. Herold released a study on the civilian casualties resulting from the U.S. bombing campaign. Documenting what the U.S. has already admitted to, Professor Herold stressed that, "A legacy of the ten years of civil war during the 80s is that many military garrisons and facilities are located in urban areas where the Soviet-backed government had placed them since they could be better protected there from attacks by the rural mujahideen. Successor Afghan governments [the Taliban] inherited these emplacements." It was clear that even if the U.S. was bombing a legitimate military target, the fact that it was located in the middle of an urban center meant that the risk of excessive civilian casualties was great. Professor Herold compiled his statistics with the unapologetic stance that he was documenting U.S. wartime atrocities. His study opens with the question: "What causes the documented high level of civilian casualties - 3,767 civilian deaths in eight and a half weeks - in the U.S. air war upon Afghanistan? The explanation is the apparent willingness of U.S. military strategists to fire missiles into and drop bombs upon, heavily populated areas of Afghanistan." Professor Herold has documented the death toll recorded up to December 6, 2001, and the estimated over 3,500 civilian casualties was determined by multiple news sources and eyewitness accounts. Critics have charged that this fact alone renders the research dubious and inconclusive. Professor Herold responded that his study "presented detailed and reliable information about the large number of civilians killed in U.S. bombing and missile attacks since October 7th. Naturally, some might seek to dismiss parts or all of the report by attacking the sources employed. But, to do so would mean having to accuse news agencies from many countries, reporters from many countries, and newspapers from many countries of lying." Whether the actual number of civilian deaths was accurate was debatable. What was obvious, however, was that a large number of Afghan civilians were perishing in the war - potentially as many as those killed in the terrorist attack on the World Trade Center. And unfortunately for the U.S. leadership, because of the ill-defined legal language of the international code governing warfare, the line between what constituted a war crime and what was a tragic, inevitable civilian death resulting from the fog of war was dangerously blurred.

Another tidbit that could be included on the UN indictment, to build the case against the US, was the endless war propaganda being churned out by some of the most respected journalists in the nation. The overzealous agenda to argue the merits of the Bush administration's war on terrorism and attack any voice of dissent that might try and be heard, has cast these media pundits into a disturbing light. How so? Because the propaganda they produce is laced with negative ethnic and religious overtones. Columnist Ann Coulter's controversial post-September 11th solution to getting rid of Islamic fundamentalist states was that, "We should invade their countries, kill their leaders and convert them to Christianity. We weren't punctilious about locating and punishing only Hitler and his top officers. We carpetbombed German cities, we killed civilians. That's war. And this is war." Noted columnist Christopher Hitchens added that "the bombers of Manhattan represent fascism with an Islamic face," and would later coin the phrase "Islamofascism." These references to Hitler and labeling the Taliban as fascist, however, could easily be construed as American media propaganda designed to incite hatred toward the al Qaeda network, the Taliban, and anyone else the Bush administration designates a terrorist menace. It was safe to assume that the average American person was not going to understand the political complexities which characterized a fascist

system versus a theocracy. Instead, the word fascism was probably going to conjure up images of Nazis goose-stepping around Berlin. Hitler, it is widely understood, was evil, and therefore anyone marked as being Hitleresque must be evil too - and the U.S. must eliminate them. The language of extermination - that the U.S. was going to rid the world of evil - does not readily lend itself as a justification of U.S. actions in the war on terrorism. Disturbingly, these same sentiments were expressed by the very Nazi regime these media pundits are using to categorize America's enemies. This idea was expressed even further by The Weekly Standard's David Brooks who wrote in a November 5th column that the American wartime debate would not be over domestic issues, but rather "they will be over how to wield power - whether to use American power aggressively or circumspectly. We will care a lot more about ends - winning the war - than we will about means. We will debate whether it is necessary to torture prisoners who have information about biological attacks. We will destroy innocent villages by accident, shrug our soldiers, and continue fighting. In an age of conflict, bourgeois virtues like compassion, tolerance, and industriousness are valued less than the classical virtues of courage, steadfastness, and a ruthless desire for victory." Yeah, thanks for clearing that up for us Mr. David "war is pretty" Brooks.

Entering the Heart of Darkness

Yet another juicy tidbit that could be listed under the "crimes against humanity" charge was the U.S. shipment of captured Taliban fighters and members of the al Qaeda network to Camp X-Ray in Guantanamo Bay, Cuba. Although the initial frenzy involved accusations of torture and inhumane treatment, (some of which may or may not be true) the biggest issue was America's refusal to recognize the captured fighters as prisoners of war, opting instead to label them as "detainees" or "unlawful combatants." This language, however, was not rooted in any legal doctrine and according to international standards, these people are prisoners of war. The reason the U.S. did not want to recognize the prisoners as such was because by doing so, the military would have eliminated the ability to interrogate them. Under the Geneva Convention, prisoners of war were only entitled to give name, rank, and serial number. Furthermore, despite the emphasis on fighting a continuous, indefinable war on terror, the U.S. has acknowledged what it considered to be a military victory in Afghanistan. The Taliban government has fallen and a new government has been erected. According to the rules of war, if this was the case, then by law the prisoners being held in Cuba would have to be returned to their native Afghanistan or whatever country they were legal citizens of as long as the U.S. was not engaged in a war with that nation. The legal complexities notwithstanding, it was clear that the United States was trying to ignore the Geneva Convention and every other convention outlining what America can and cannot do in its war on terrorism.

In the end, what it comes down to was that under the current, flawed standards of the international law governing warfare, the United States could be indicted on charges of war crimes and crimes against humanity. And all it would take is for someone to point a finger at Washington with the international community standing behind them - glaring. So Americans better start putting down their flags and taking a long moment of pause. If they don't, they just might see their beloved President Bush and their precious Donald Rumsfeld kidnapped in the dark of the night and dragged off to the Hague. Cheering Americans might not care about the lives of innocent civilians in another country, but they sure would care about that.